

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE R.BASANT**

**THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929**

**Crl.MC.No. 3263 of 2007()**  
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**CC. 140/2003 OF ADDL.CHIEF JUDICIAL MAGISTRATE COURT,  
ERNAKULAM.**

**PETITIONER:**  
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**CHANDY THOMAS, AGED 61,  
SON OF LATE MR. CHANDY, RESIDING AT  
PATHIYAMOOLA HOUSE, PALLIPURAM P.O.,  
CHERTHALA, ALAPPUZHA DISTRICT, PIN-688541.**

**BY ADV. SRI.SHAJI CHIRAYATH**

**RESPONDENTS:**  
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**P.C.JOSEPH, PATTTERIPURACKAL,  
40/1126, POST BOX NO.1196, T.D.ROAD,  
ERNAKULAM DISTRICT PIN-682011.**

**BY PUBLIC PROSECUTOR SRI. M.S.BREEZ**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**R.BASANT, J**

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**Crl.M.C.No.3263 of 2007**  
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**Dated this the 25<sup>th</sup> day of October, 2007**

**O R D E R**

The petitioner faces indictment in several prosecutions under Section 138 of the Negotiable Instruments Act. The cases are filed as early as in 2003. At long last, in 2007, the petitioner filed applications for joint trial of the cases. The learned Magistrate, by the impugned order turned down the said prayer. The learned Magistrate noted that trial in the cases have already started and they are at various stages. In these circumstances the learned Additional Chief Judicial Magistrate felt that there is no merit in the belated prayer for joint trial.

2. I am called upon to invoke and exercise the extraordinary inherent jurisdiction under Section 482 Cr.P.C. Such jurisdiction is to be invoked only if the court is satisfied that there is failure or miscarriage of justice resulting from the impugned order. I find no such vice available in this case at all. It is not difficult to read between the lines that the petitioner is only trying to further delay and protract the 138 proceedings initiated as early as in 2003. All the cases are filed in 2003 and I find no explanation for the petitioner not insisting on an order of joint trial sufficiently early and in not at any rate insisting on orders on such application for joint trial prior to the commencement of the trial.

3. In any view of the matter, I am satisfied that no failure or miscarriage of justice has resulted from the impugned order.

This Crl.M.C is, in these circumstances, dismissed.

**(R.BASANT, JUDGE)**

rtr/-